

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
MISSOULA DIVISION

CARLA WIGTON,

Plaintiff,

vs.

STATE FARM FIRE AND
CASUALTY COMPANY,

Defendant.

CV 20-98-M-DWM

ORDER

On July 28, 2021, summary judgment was granted in favor of Plaintiff Carla Wigton. (Docs. 39, 40.) On November 30, 2021, an amended judgment awarding fees and costs to Wigton as the prevailing party was entered. (Doc. 67.)

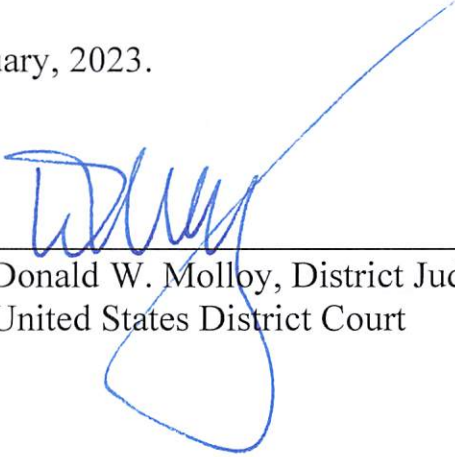
Defendant State Farm Fire and Casualty Company appealed the merits decision but not the fee award. (*See* Doc. 49.) On December 21, 2022, the Ninth Circuit reversed the Court’s grant of summary judgment in favor of Plaintiff Carla Wigton, (Doc. 69), and a mandate was issued on January 12, 2023, (Doc. 70). Defendant now moves unopposed to vacate the November 30, 2021 amended judgment of the Ninth Circuit’s reversal. (Docs. 67, 71.)

Federal Rule of Civil Procedure 60(b)(5) permits a court to “relieve a party . . . from a final judgment [or] order” when the judgment “is based on an earlier

judgment that has been reversed or vacated.” The amended judgment awarding fees and costs in favor of Wigton is now based on an “earlier judgment that has been reversed” by the Ninth Circuit. Accordingly,

IT IS ORDERED that Defendant’s motion to vacate, (Doc. 71), is GRANTED. The November 30, 2021 Amended Judgment, (Doc. 67.), is VACATED.

DATED this 10th day of February, 2023.



Donald W. Molloy, District Judge
United States District Court